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The Dutch Government welcomes the opportunity to respond to the Consultation. This reply builds on our earlier positions taken in response to the Green Paper *Preparing for a Fully Converged Audiovisual World: Growth, Creation and Values*. In our response we will discuss the issues in the order in which they are addressed in the consultation document.

General remark
The consultation is part of the Digital Single Market strategy. The development of the digital economy is a major opportunity to create innovation, growth and jobs in Europe. The Dutch government considers that, to exploit the full potential of the digital economy, a renewal of the Audiovisual Media Services Directive (AVMSD) is expedient.

The Netherlands considers the technology-based distinction between linear and non-linear outdated. But this by no means leads to the conclusion that the current linear rules need to be extended to the non-linear world. On the contrary, the Netherlands sees the upcoming revision of the AVMSD as an opportunity to think carefully about a coherent regulatory framework and, more specifically, and as an opportunity to try and reduce the rules applying to linear services thus bringing them more in line with the lighter non-linear regime in the AVMSD.

1. Ensuring a level playing field for audiovisual media services

Services to which the Audiovisual Media Services Directive (AVMSD) applies

- The Netherlands attaches great importance to creating a level playing field for linear broadcasters, on-demand providers, and intermediaries.
- The present media convergence however affects the chances for a level playing field as we are confronted with different legislative regimes in different fields (internet, broadcast, telecom etc).
- The fragmented approach of EU-legislation is as a consequence outdated.
- The Netherlands believes the answer should not be more or more detailed regulation.

- The media world is changing rapidly due to technological and other developments. (Innovative) audiovisual media services need less detailed rules to be able to adjust to this changing landscape.
- Additionally, more regulation would result in an increased administrative burden (both financial and in terms of reporting) which would be disproportionate and obstructive for both businesses and the authorities.
- Therefore the Netherlands is in favour of limiting the number of the AVMSD provisions in the linear domain, where possible.
- Concerning services with limited turnover and a small audience, the Netherlands favours the introduction of a 'de minimis' provision in the AVMSD, for example a threshold based on audience size, market share, or turnover figures, thereby possibly limiting the scope of the Directive.

Geographical scope of AVMSD
- The Netherlands is not in favour of extending the scope of application of the Directive to providers of audiovisual media services established outside the EU that are targeting EU audiences.
- An extension of the scope would also create administrative burdens (for both the national regulators as the operators) and impair innovation.
- This could lead to the possibility of those services not being made available to Europeans.

2. Providing for an optimal level of consumer protection

- The Netherlands believes that the current rules on consumer protection are relevant but not always effective.
- The Netherlands advocates relaxation of the rules for advertising product placement and sponsorship.
- In the case of news and current affairs programmes, programmes for children, documentaries, and religious programmes, there should continue to be scope for a stricter regime.
- Also rules regarding the promotion of alcohol, tobacco and medicines should remain in place.

3. User protection and prohibition of hate speech and discrimination

General viewers' protection under the AVMSD
- The Netherlands believes protection against and prohibition of hate speech and discrimination is undisputed and should be maintained.

Protection of Minors
- The protection of minors should continue to be a major priority of European media policy.
- The Netherlands favours complementing the current provisions via self- and co-regulation, thus leaving some freedom for member states to apply their policies in accordance with their needs and traditions.
- As traditions differ in the EU, further harmonisation would be counterproductive.

- The Netherlands favours promotion by the Member States of media awareness among parents, children, and teachers. The EU should encourage the exchange of best practices in this field.

4. Promoting European audiovisual content

- The Netherlands doubts the present rules for promoting European works are effective and advocates abolishing the European quotas in their present form.
- European policy should focus more on promoting the marketing and distribution of European content. And European and member state policies should also focus more on (co)production and raising the quality level of the productions. In these policies, the opportunities and importance of recommendation engines and findability should be taken into account.
- Consideration can be given to an obligation to have a certain quantity of national or European productions which are funded from public resources.

5. Strengthening the single market

- The Netherlands attaches great importance to the strengthening of the single market for audiovisual services.
- The Country of Origin-principle is the cornerstone of the AVMSD and should be maintained as leading principle.
- Derogations to this principle should be evaluated, particularly the national security derogation. This derogation should be added for linear broadcasting.

6. Strengthening media freedom and pluralism, access to information and accessibility to content for people with disabilities

Independence of regulators

- The Netherlands believes that the focus should be both on the de jure *and* the *de facto* independence of media oversight bodies. If the Commission were to present a proposal for amending the Audiovisual Media Services Directive, the criteria for independent supervision of the telecom market (article 3 of the 2009 Framework Directive on electronic communications) could serve as an example.

Must Carry/Findability

- The Netherlands believes that the system of must-carry (or must-offer rules in other member states) for linear broadcasters has worked well in the past and could remain effective going forward. It should be at the member states' discretion to determine if those rules should remain in place.
- The Netherlands believes that it is important to ensure local content to be easily found and accessed.
- We oppose pushing content to people. Policies should support local creative industries, pan-European and transatlantic productions and stimulate production of quality content with public value.
- We also believe competition policies should facilitate access to new European and global markets.

Accessibility for people with disabilities
- The Netherlands strongly advocates accessibility of media for visually or hearing impaired persons.
- The present provisions in the AVMSD are adequate.

Events of major importance to society
- The Netherlands believes there should be room for Member States to keep the list concerning events of major importance in place.
- The system where a Member State can opt to send the list to the Commission for mutual recognition has worked well.
- The Netherlands considers it essential that Member States are able to take measures to protect the right to information and to ensure wide access by the public to television coverage of national or non-national events of major importance to society, such as the Olympic Games, the FIFA World Cup and the UEFA championships.
- However, the Netherlands would like to point out that the term ‘free television’ in article 14, first paragraph, is becoming less ‘clear’ because of the changing media-landscape and the TV/internet convergence.
- Therefore the Netherlands would like a clarification on whether the scope of article 14, first paragraph, includes ‘over the top’ linear media distribution.

Short news reports
- The Netherlands considers the provisions in the present regulation facilitating access to short news reports to be important. They support democracy in the member states and the EU.
- The concerned provisions should be maintained.

Right of reply
- The present provisions in the AVMSD are adequate.

Yours sincerely,

State Secretary of Education, Culture and Science

Sander Dekker